



Re: Tovar v Indiana 12cv06104
Mark Moody
to:
ForrestNYSDChambers@nysd.uscourts.gov
10/04/2012 08:31 AM
Cc:
"Sesser, Gary", "Wallace, Judith", 'Ted Kaplan'
Hide Details
From: Mark Moody <mwm@mwmoodly.com>

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: OCT 04 2012

To: "ForrestNYSDChambers@nysd.uscourts.gov"
<ForrestNYSDChambers@nysd.uscourts.gov>

Cc: "Sesser, Gary" <sesser@clm.com>, "Wallace, Judith" <Wallace@clm.com>, 'Ted Kaplan' <ted@theodorekaplan.com>

12cv 6104 (KBF)

Please respond to Mark Moody <mwm@mwmoodly.com>

Dear Judge Forrest:

Once again, I apologize for the informality of my communication which is occasioned by the fact that I am overseas.

My office, M W MOODY LLC, represents Plaintiff.

I write pursuant to your Individual Practice 6.C.

As the Court may be aware, in a companion matter, Plaintiff (a resident of a foreign country at the time) sued Defendant Indiana, together with John Gilbert and Simon Salama-Caro, in the Southern District, a case which was dismissed by Judge Wood on the grounds that diversity was destroyed by Mr. Salama-Caro who - for tax purposes as I understand it - was a resident of the United Kingdom. The presence of two aliens on either side of the plaintiff-defendant divide destroyed diversity according to Judge Wood's decision.

As a result of that decision, Plaintiff sued Defendant Indiana in state court in Maine. Defendant Indiana's counsel removed the matter to federal court in Maine, and sought to return the matter to New York. Against opposition, that motion was granted, and hence the case came before your Honor.

There can be no doubt that Defendant Indiana is a citizen and resident of Maine. There can be no doubt that Plaintiff is not a citizen or resident of Maine. There can also be no doubt that Plaintiff seeks recovery of in excess of \$75,000.00 representing the damage to Plaintiff from sales of artworks that Mr. Indiana signed (and later renounced) a Certificate of Authenticity for, and that Mr. Indiana posed for

photographs with the aforementioned artworks.

Accordingly, Plaintiff submits that diversity jurisdiction exists.

Respectfully submitted,

Mark Warren Moody
(MWM 3742)